

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

MICHAEL HARDY,)	
)	
Plaintiff,)	
)	Case No: 02:08-cv-15 MHT
vs.)	
)	
J. WALTER WOOD, Jr., et., al.)	
)	
Defendants.)	

AFFIDAVIT OF T. DUDLEY PERRY, JR.

My name is T. Dudley Perry, Jr. I am counsel for the Alabama Department of Youth Services. Sancha E. Teele is an attorney who works with me and we represent Walter Wood, Jr., the Defendant in this case. This affidavit is in response to the "Report of Parties' Planning Meeting" filed by counsel for the Plaintiff on February 7, 2008, at approximately 12:54 p.m.

Ms. Teele attempted to contact Ms. Kennedy by telephone yesterday, February 6, 2008, but was unsuccessful. So at 1:51 p.m. on February 6, Ms. Teele faxed a letter to Ms. Kennedy asking Ms. Kennedy to contact Ms. Teele to prepare the discovery plan in this case. (Exhibit A).¹

Subsequently, at 3:49 p.m. my Legal Assistant made a note that she received a telephone call from Ms. Kennedy. I was at out of the office at a Legislative Contract Review Committee meeting and could not be reached. I did not learn about Ms. Kennedy's message until today at approximately 1:30. That was the first telephone message I received from Ms. Kennedy and my office did not receive a message from Ms. Kennedy for Ms. Teele nor did anyone call and ask to speak with Ms. Teele about this case.

¹ The transaction report indicates the time was 2:51 p.m. because the clock on the fax machine is one hour fast.

Today, February 7, 2008, I was again out of the office dealing with the legislature and other matters in downtown Montgomery. At approximately 1:35 p.m., when I spoke with my Legal Assistant and learned for the first time that Ms. Kennedy had called yesterday, I immediately returned Ms. Kennedy's call. Ms. Kennedy informed me that she had filed a proposed Rule 26(f) discovery plan. She informed me that she had been out of the office yesterday and apologized.

I regret that Ms. Kennedy and I were unable to communicate to handle this matter and I apologize to the court and to Ms. Kennedy for any inconvenience.

Attached is the Defendant Walter Wood's proposed Discovery Plan. (Exhibit B).

Done this 7th day of February, 2008.

s/T. Dudley Perry, Jr.
T. Dudley Perry, Jr.
Bar Number: 3985-R67T
General Counsel
Alabama Dept of Youth Services
Post Office Box 66
Mt. Meigs, AL 36057
Telephone: (334) 215-3803
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Sancha E. Teele
Assistant Attorney General
Bar Number: 0103-H71T
Attorney for the Defendant
Alabama Department of Youth Services
Post Office Box 66
Mt. Meigs, AL 36057
Telephone: 334-215-3803
Fax: (334) 215-3872
E-Mail: sancha.teele@dys.alabama.gov

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of February, 2008, I electronically filed the foregoing

Aaffidavit of T. Dudley Perry, Jr., with the Clerk of the Court Using the CM/ECF system

which will send notification of such filing to the following:

Gwendolyn T. Kennedy
Attorney for Plaintiff
3000 Eagle Point Corporate Dr., Suite 300 A
Birmingham, AL 35242
(205)437-0160

/s/T. Dudley Perry, Jr.

T. Dudley Perry, Jr.
Bar Number: 3985-R67T
Deputy Attorney General
Attorney For Defendant
J. Walter Wood

STATE OF ALABAMA
DEPARTMENT OF YOUTH SERVICES

BOB RILEY
GOVERNOR

POST OFFICE BOX 66
MT MEIGS, ALABAMA 36057

J. WALTER WOOD, JR.
EXECUTIVE DIRECTOR

February 6, 2008

Ms. Gwendolyn Thomas Kennedy
3000 Eagle Point Corporate Drive, Suite 3000A
Birmingham, Alabama 35242

RE: *Michael Hardy v. J. Walter Wood, Jr. et. al.* UDC Middle Alabama; CV-No:2:08-CV-15-MHT

Dear Ms. Kennedy:

Yesterday, I received an order from the court granting your motion for additional time to comply with the Rule 26(f) requirements of the Federal Rules of Civil Procedure. I contacted your office earlier today to discuss a proposed discovery plan, but you were not available. Please contact me as soon as possible so we can complete the proposed discovery plan. The deadline to submit the discovery plan is today.

Thank you for your attention in this matter.

Sincerely,



Sancha E. Teele
Assistant Attorney General
Department of Youth Services

SET/pic

TRANSACTION REPORT

FOR: DYS.LEGAL

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vs.)	
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J. WALTER WOOD, Jr., et., al.)	
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Defendants.)	

DEFENDANT'S PROPOSED DISCOVERY PLAN

1. The parties and their counsel are:

For plaintiff Michael Hardy:

Gwendolyn T. Kennedy
Attorney for Plaintiff
3000 Eagle Point Corporate Dr., Suite 300 A
Birmingham, AL 35242
(205)437-0160
For plaintiff Michael Hardy:

For Defendant Walter Wood:

T. Dudley Perry, Jr.
Bar Number: 3985-R67T
General Counsel
Alabama Dept of Youth Services
Post Office Box 66
Mt. Meigs, AL 36057
Telephone: (334) 215-3803
Fax: (334) 215-3872
E-Mail: dudley.perry@dys.alabama.gov

and

Sancha E. Teele
Assistant Attorney General
Bar Number: 0103-H71T
Attorney for the Defendant
Alabama Department of Youth Services

Post Office Box 66
Mt. Meigs, AL 36057
Telephone: 334-215-3803
Fax: (334) 215-3872
E-Mail: sancha.teele@dys.alabama.gov

2. PreDiscovery Disclosures. The parties will exchange by **February 20, 2008** the information required by Fed.R.Civ.P. 26(a)(1).

3. Discovery Plan. The parties jointly propose to the court the following discovery plan:

Discovery will be needed on the following subjects:

The Plaintiff seeks discovery relating to:

1. Failure to thoroughly investigate the allegation contained in the grievance that Plaintiff filed concerning an accusation of sexual harassment filed against him.
2. Whether the defendant attempted to conceal the failure to properly investigate and record the investigation regarding the grievance.
3. Whether Plaintiff's employment was wrongfully terminated by defendant.
4. Whether Plaintiff's due process rights were violated.
5. Whether the Plaintiff was the victim of fraud and misrepresentation.

Defendant does not agree that discovery on the above subjects is necessary or appropriate.

Defendant asserts that he is entitled to immunity and that no discovery is appropriate on any of the above referenced subjects until the immunity issues are resolved. Nevertheless, before the immunity issues can be addressed, the Defendant submits that discovery is necessary on the following subjects:

1. The Defendant must first obtain contention discovery to adequately identify the Plaintiff's claims. The Defendant submits that the complaint does not provide a short and plain statement of the claims and the Defendant cannot respond, even to the extent necessary to assert the immunity defenses, to the allegations in the complaint.
2. If the claims survive immunity, the Defendant will seek discovery on all the plaintiff's factual allegations and all the Defendant's claims and defenses.

All discovery regarding the immunity issues commenced in time to be completed by **August 15, 2008**.

Maximum of **25** interrogatories by each party to any other party. Responses due **30** days after service.

Maximum of **25** requests for admission by each party to any other party. Responses due **30** days after service.

Maximum of **10** depositions by plaintiff(s) and **10** by defendant(s).

Each deposition limited to maximum of **7** hours unless extended by agreement of parties.

Reports from retained experts under Rule 26(a)(2) due:

from plaintiff(s) by **July 1, 2008**

from defendant(s) by **July 15, 2008**

Supplementations under Rule 26(e) due no later than **30** days before trial.

4. The parties request a conference with the court before entry of the scheduling order.

The parties request a pretrial conference in **October 2008**.

Plaintiff(s) should be allowed until **April 15, 2008** to join additional parties and amend the pleadings.

Defendant(s) should be allowed until **April 15, 2008** to join additional parties and amend the pleadings.

All potentially dispositive motions should be filed by **September 1, 2008**.

Settlement cannot be evaluated prior to resolution of the immunity defense, and if the claims survive immunity, settlement cannot be evaluated prior to a ruling on summary judgment.

Final lists of witnesses and exhibits under Rule 26(a)(3) should be due

from plaintiff(s) by **October 15, 2008**

from defendant(s) by **October 30, 2008**

Parties should have **14** days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).

The case should be ready for trial by the **December 2008 trial term** and at this time is expected to take approximately **2 days**.

Done this 7th day of February, 2008.

s/T. Dudley Perry, Jr.
T. Dudley Perry, Jr.
Bar Number: 3985-R67T
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Alabama Dept of Youth Services
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Mt. Meigs, AL 36057
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Sancha E. Teele
Assistant Attorney General
Bar Number: 0103-H71T
Attorney for the Defendant
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Post Office Box 66
Mt. Meigs, AL 36057
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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of February, 2008, I electronically filed the foregoing Proposed Discovery Plan, with the Clerk of the Court Using the CM/ECF system which will send notification of such filing to the following:

Gwendolyn T. Kennedy
Attorney for Plaintiff
3000 Eagle Point Corporate Dr., Suite 300 A
Birmingham, AL 35242
(205)437-0160

/s/T. Dudley Perry, Jr.

T. Dudley Perry, Jr.

Bar Number: 3985-R67T

Deputy Attorney General

Attorney For Defendant

J. Walter